D.B. CIVIL SPECIAL APPEAL (W) NO.566/007
State of Rajasthan & Ors. Vs. Bal Kishan Mathur.

Date : 25.5.2007

PRESENT

HON'BLE MR. JUSTICE RAJESH BALIA
HON'BLE MR. JUSTICE BHANWAROO KHAN

Mr. R.P.S. Choudhary for the appellant.

Having heard learned counsel for the appellant we find that there is no merit in this appeal.

The respondent, a retired government servant, had undergone open heart surgery at Tongya Heart and General Hospital, Jaipur on 21.1.2002 and incurred expenses to the tune of Rs.1,31,932.61.

The claim to reimbursement was denied by the appellant Government inter alia on the ground that the respondent was not entitled to reimbursement in terms of Rajasthan Pensioners Medical Concession Scheme vide communication dated 1.10.2002 on the ground that the hospital where the petitioner has undergone cardiac surgery is not a hospital recognised

by the Government of Rajasthan.

Being aggrieved by the same, the petitioner filed the writ petition. The learned Single Judge referred to clause 4B of the Scheme with reference to which the claim was denied which permits the reimbursement of medical expenses incurred in the treatment and surgery and is not undertaken at the recognised hospital by the Government. At the relevant time when the heart surgery was undergone by the respondent, the said scheme for reimbursement in such event was permissible upto 80% of the hospital expenses or a sum of Rs.1,20,000/- whichever is less. The clause 4B of the scheme, as was prevalent as on the date operation was performed and expenses were incurred, permitted a pensioner and member of his family as defined in sub-para (5) of pare 3 of the Scheme for the grant of financial assistance at the same rate and condition as indicated in para 4(a) irrespective of the place where the surgery has been undergone in respect of treatment by open heart surgery, except that where such surgery has taken place in the Government hospital within the State

of Rajasthan, the condition of reference by the Board and sanction of Principals of medical college was not necessary.

Therefore, there was no prohibition against taking treatment away from the Government hospital.

The learned Single Judge relying on this clause and the principle annunciated by the Supreme Court in Surjit Singh V. State of Punjab and others (AIR 1996 SC 1388) and State of Punjab and others Vs. Mohan Lal Jindal (2001) 9 SCC 217 which were applied by this Court in Anil Kumar Surolia Vs. State of Rajasthan and others reported in 2005(3) WLC 396 allowed the writ petition directing the respondents to reimburse the medical claim in terms of clause 4B prevalent at the time when the petitioner had undergone such treatment. The reimbursable amount in such cases was 80% of actual expenses incurred for the treatment or Rs.1,20,000/- whichever is less.

In that view of the matter, no interference is

called for in the order passed by the learned Single Judge.

The appeal is, accordingly, dismissed.

[BHANWAROO KHAN], J. [RAJESH BALIA], J.

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